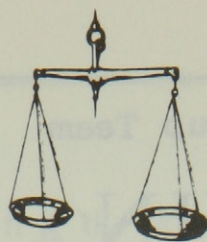


Quid Novi



VOL. IV NO. 20¹⁹

McGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT UNIVERSITE MCGILL

February 29, 1984
29 février, 1984

Our New Dean: Rod Macdonald

The appointment of Prof. R.A. Macdonald as McGill's new Dean of Law bodes well for the future of the Faculty. Prof. Macdonald will bring to his new position the energy and openness necessary to direct the school as it comes to grips with a set of difficult challenges.

Throughout his tenure, Dean Brierley was faced with the problem of shrinking resources and adverse external circumstances which led to what has been described as a "seige mentality" at McGill. In the words of Stephen Scott, McGill has been held together by "scotch tape and band-aids": If its delicate mechanism were disturbed, McGill would be in danger of falling apart.

However, over the past two years in particular, Dean Brierley has managed, through the Faculty Review process, to rebuild and expand the resources of the Faculty. Prof. Macdonald therefore takes office in a period of growth and revitalization. The delicate mechanism is not so delicate anymore, and is due for some reappraising and restructuring.

In particular, Prof. Macdonald's substantial scholarly credentials suggest that a premium will be placed upon innovative research and writing in the Faculty. In order to

achieve this end, it will be necessary to reduce the faculty members' teaching load and administrative burden. This is already occurring in some measure with the increase in the size of the teaching staff. It may also prove necessary to reappraise the admissions and recruitment process with a view to bringing the student-teacher ratio down, in line with the recommendations of the ad hoc Re-

view Committee.

A reappraisal of the admissions and recruitment process may also go some distance toward boosting the faculty's esteem for the student body. The more difficult McGill is to get into, the more difficult it should be to fail people and to give them poor marks. There is no question that student-faculty relations

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MCGILL UNIVERSITY

Faculty Council

by Francie Ducros

Two weeks ago, Faculty Council reconvened to further consider the resolutions passed at the L.S.A. General Assembly of February 1st.

Changing Exam Numbers

Steven Fogarty was invited at the outset to put forth the first motion, that student exam numbers be changed each term. Associate Dean Simmonds then explained the procedure at Windsor University, where teaching staff in charge of full year courses were provided with "decoding sheets" at the end of the second term in order to compute the student's grades. Professors were, however, relied upon not to take possession of the decoding sheet until at least some preliminary

marking was done. Professors could then use the decoding sheets in order to evaluate borderline cases.

Council members contributed to the discussion which centered on issues of trust, anonymity and objective marking. Professor de Mestral pointed out that his students are evaluated on three different pieces of work -- which identify the student -- and wanted those three pieces before him when he computed the final grades. He expressed concern that nothing proposed should be so complicated as to prevent this.

This Is How It's Done In Ethiopia

Professor Sklar reiterated this concern and spoke of the Ethiopian system, where Professors are given

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Dean

Cont'd from p. 1

will be high on Dean Macdonald's agenda, and this week's proceedings at Faculty Council ought to pave the way toward some progress on that front.

Principal Johnson's choice of Prof. Macdonald is also a vote of confidence in the younger members of the Faculty. In the future, they will be looked to for direction and leadership.

As with any transition, it will take a while for Prof. Macdonald to make his mark on the Faculty. One hopes that in the initial stages he will be given sufficient room to manoeuvre so that he can make his positive vision of the school into a reality.

Richard Janda

Congratulations Dean Macdonald -- I hope we still get to call you "Rod".

Quotable Quotes

"The fact that it would be unfair is irrelevant."

--Professor Daniel Levinson, Security on Immoveables, February 14, 1984, speculating that a scheme enabling a bank to squeeze out a secondary hypothecary creditor would be upheld as valid.

"Capital punishment is very bad for rehabilitation".

Prof. Sklar, Feb. 15th

Jessup Team

JOHN , IAN, ANGUS, & ROGER COME FOURTH

Congratulations are in order for the excellent performance of McGill's mooting team at the Jessup International Mooting Competition held last weekend at Dalhousie University. McGill placed fourth out of 15 teams, and took the prize for the third-best memorial. McGill also won the prize for best Quebec team. John Yatsko was the fourth-best pleader overall, and won the prize for the best Quebec oralist. Roger Cutler, Angus McKinnon and Ian Fraser also placed very well.

Dalhousie won the tournament, followed by University of Toronto and Osgoode.

Sports

Better Late Than Never

In our reporting of the Common Law Sports tournament, we neglected to mention the brilliant performances of Jill Samis and Celia Rhea in the women's squash competition. Jill won, and Celia made it to the semi-finals to bring honour and glory to our hallowed halls.

Pirates

Cont'd

Sa conscience professionnelle en etait toute émue car il est bien connu qu'un tresorier consciencieux doit avoir une vision claire des choses!

J'ai trouvé très comique l'ardeur flagrante dont faisaient preuve nos étudiants en droit, acteurs d'un soir, pour représenter le crime et la ferocité qu'est censé incarner tout bon pirate. Visiblement, à en juger par leur enthousiasme, l'illegalité semble beaucoup plus attrayante que le strict respect du droit.

Je laisserais à chacun le droit de tirer les conclusions qui s'imposent quant à l'avenir de ces juristes en herbe.

Pour ma part, je ne retiendrais officiellement que cette impression générale; si le public s'est bien amusé, les acteurs ne semblaient pas du tout s'ennuyer.

La recette réussie d'un quart de chansons, un quart de joie de vivre, un zeste d'amour, et deux bons quarts d'humour!

Martine Wallerman

Letters

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waiting at a wine and cheese party in the Common Room for two hours until marks were posted, my reaction to a fluke high (relatively) mark my first semester at McGill was to fall on my knees before Stephen Scott, grab his hand and babble out my thanks, promising to actually work in Constitutional second semester. This wasn't particularly useful either, but at least it was funny.

Letters:

Boodman's "A" Responds

It was with some surprise (not altogether pleasant) that I found included in Joanie Vance's profile of Professor Boodman (Quid Novi Jan. 25, 1984) a review of my exam paper in Consumer Law. While I'd be the first to admit that my attempted humour is sophomoric at best, I would like this opportunity to defend my honour.

While Ms. Vance's own exam paper may have been quite a laughing matter in itself, I would point out that professorial critics have posted far kinder reviews for my past performances. To date, they've chuckled their way through several papers that have received a similar grade. It would seem that, unlike Ms. Vance, they found content buried amongst my stand-up routine.

Both Ms. Vance and Demitrios Xistris raise valid points as to the marking inconsistencies in our faculty, yet their obvious sour grapes is somewhat disappointing. Perhaps they should consider reading a few joke books in preparation for their next exams.

"The Unknown Comic"

Joanie Vance Replies:

When I wrote the article about Prof. Boodman in December for the Quid's periodic feature on new professors, I did not intend to address the issue of marks. Having known Boodman for eight years, I thought I could describe a multi-talented, warm and funny person whom I like and admire. But when the marks went up I could not ignore the dismay of many students in Consumer Law who believed they had received an unde-

servedly low mark. Nor could I fail to note -- and this may be an unpopular admission -- that some people were relieved to get a higher mark than they had expected, given what they had written. I also think it is significant that two out of five failures in Consumer passed on the reread. Five is a small number from which to extrapolate, but one can suggest that it is a serious matter for a co-examiner to disagree with an evaluation to the extent of raising 40% of the failed papers out of that category. Nor was the assessment of the A paper mine alone; at least four other Consumer classmates whose opinions I respect read the exam before it was removed from the reserve desk, and agreed with me that it was not an A paper.

Our unknown critic him/herself agrees that valid points can be made regarding marking inconsistencies. Yet when he or she has benefited in this one instance, suddenly it is suggested that Quid writers are motivated to address the issue solely by "sour grapes". The unfortunate implication is that whoever criticizes marking practices is a poor student and that only students who do well are in a position to comment credibly upon a professor's grades. But students who do well have no cause to complain, and thus there will never be legitimate criticism.

I don't think, actually, that my HPA is a factor which at all affects my ability to discuss the problem of inconsistent marking. Just as teaching is an acquired skill, so too is accurately marking 75 exams in

a little over two weeks. I know what it is like to mark eight tutorial assignments, each of which take 1 1/2 hours at a minimum. And I think that the difficulty in marking exams -- not merely with respect to the time factor -- is recognized as a factor contributing to the 60-student class size limit now in effect for first-time professors.

Marking inconsistency is a serious matter; in the absence of faculty efforts to provide marking guidelines, students have attempted to resolve the problem by requesting a sample model answer or cross-professorial checking of exams. But until mechanisms are developed to prevent inconsistent marking, the converse to the fact that some good exams get low marks will remain the fact that some mediocre exams get high marks.

I think our comic's assessment of his/her humour as sophomoric is a bit harsh -- a quick glance at my trusty Merriam-Webster pocket dictionary reveals that being sophomoric is "being conceited and overconfident of knowledge but poorly informed and immature". This may describe our comic's letter to the Quid, but not the humour, which was merely silly. I am sorry that the darker side of grading inconsistency necessarily means that some students are going to have some laurels spoiled by peer criticism. But I don't think that the most useful reaction is to believe that such inconsistency affects only others' high marks.

I remember that after

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Editor-in-Chief Pearl Eliadis
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Gertie Witte

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Editorial

Support «Deve» Proposal

Thursday's Faculty Council meeting will be considering an important and positive proposal, circulated by the Dean, for addressing the problem of diverging marking standards. The so-called "Deve" proposal, the details of which remain to be worked out, deserves student and faculty support.

The essence of the "Deve" system is that class rank is based on how well one does relative to one's class-mates in a given course or section. Professors would continue to assign letter grades, and each student's HPA (or GPA if the D grade proposal goes through) would continue to be calculated. In addition, A "Deve" score would be calculated for each student. A "Deve" is a number expressing how far above or below the average in each particular section a given student has scored. A Deve score above zero indicates performance above the mean while a Deve score below zero indicates below the mean. Overall class rank would be based on a "Deve Point Average" (DPA).

This proposal would not require mandatory grading standards, which the faculty opposes since a "Bell curve" would limit their ability to assign varying ranges of marks. Thus, the Deve proposal is sensitive to faculty concerns. Furthermore, it would ensure greater fairness in measuring the comparative achievement of students and thus would answer student concerns.

In order to implement the Deve proposal, it may well become necessary to adopt the GPA and its "D" grade, which is used by other McGill faculties. The university administration might resist setting up a new expensive calculation system unless it falls in line with the GPA. Under such circumstances, students should be prepared to support a switch to the D grade, which also holds out some promise of reducing failures to a negligible phenomenon.

The Deve proposal goes a long way toward answering student concerns about grading disparities. Faculty Council is urged to give it favourable consideration.

Richard Janda

Announcements

A bound volume of Quid Novi issues was removed from our office some time last term. We would appreciate having it back. It's the only copy of earlier immortal issues of Quid Novi that we have.

On Thursday, March 8, Me. Raphael Schacter, Defense Counsel, will be speaking on the topic of Prosecutorial Discretion. The lecture will take place in Room 101 at 12:00.

Criminal Law Group

Editorial

On Faculty Council

Those who would criticize the performance of the Faculty Council two weeks ago have every reason to do so. The delaying and trivializing tactics employed by some professors constituted a disservice to the students who had placed the resolutions in issue before Council, as well as to other members of Council who wished to engage in serious discussion. The manner in which the resolutions were framed may not have allowed an effective treatment of the issues before such a body. Also, some interventions of student representatives, particularly the Fraser-Sloan committee motion, led to clumsy, vague discussion and discouraging results.

The above conceded, the question which remains is "now what?". Will Council proceed with a prolonged and painful dissection of the remaining resolutions? Will mutual feelings of distrust be aggravated by an escalation of gamesmanship? Will student reps or even (perish the thought) professors get further "good lessons in parliamentary procedure"? Have students "missed our chance to do anything about it until 1990" as one professor has so kindly informed us? Will the evaluation issue become another quadrennial dossier in the LSA filing cabinet? Will there be some kind of collective action, and, speaking of quadrennial dossiers, will such action achieve anything?

Professor Jane Glenn, during a tutorial session, once admonished me when I referred to the Faculty as "this place". I presume she was implying (and correctly so) that the Faculty is more than a building; that it is occupied by people with real concerns about the academic process and its product. We can only hope that my inference is correct. We can only hope that at this Thursday's meeting Council will be willing to break away from patterns of inflexible adherence to preconceived notions of protecting vested interests and translate those real concerns into the recognition that the evaluation process poses a serious problem.

Certainly this means that student reps will have to recognize and overcome the obstacles which prevent the implementation of their proposals. We will have to demonstrate an understanding of the constraints under which professors work and of the importance of individual pedagogical freedom. However, professors also must attempt to show some demonstrable movement towards meeting student concerns. Most important, they have to provide us with some guidance and cooperation in overcoming the rigidities of the forum in which, for better or for worse, students have raised the issues.

I think that the past two weeks have given all members of Faculty Council the opportunity to consider constructive ideas to bring to the next meeting. If we do not succeed in giving effect to those ideas, we will have only confirmed that a building with people in it can still be referred to as just a "place".

Todd Sloan

Pirates of

Penzance

L'Amour et le Droit
étaient au rendez-vous en ce
jeudi 16 février.

Décidés sans doute à profiter au maximum du party de la Saint Valentin, de nombreux étudiants en droit étaient venus chercher des idées tout en éduquant leurs oreilles; la société Savoy présentait en effet une adaptation des "Pirates of Penzance" de Gilbert et Sullivan.

Notre département était d'ailleurs dignement représenté puisque trois de nos condisciples ont participé des plus activement à la préparation et à l'exécution du programme.

Un jeune homme, piraté par amour, mais guidé par un sens aigu du devoir (cela doit exister) décide de revenir à la vie honnête. Il découvre l'amour -- un de plus! -- et cherche à ramener ses anciens amis sur les chemins de la Vertue.

Malgré une certaine faiblesse musicale de l'orchestre, l'ensemble était agréable à écouter, servi par une très bonne interprétation des chœurs et des solistes. La chorégraphie était également à la hauteur avec des mouvements d'ensemble fort bien exécutés.

Mes voisins ont semblé fortement apprécier les costumes des demoiselles qui laissaient entrevoir d'intéressantes possibilités (selon eux) sur ce que l'on appelle en langage populaire, leurs jambes.

Le trésorier de l'association étudiante, j'ai nommé Paul Dunn, reprochait d'avoir oublié ses lunettes.

Cont'd on p.2

Hope Springs Eternal

Interview with President Fogarty

by Pearl Eliadis

The theme of Stephen Fogarty's recent appeals to Faculty Council has been hope. Students come to the Law Faculty filled with hope, but it quickly turns into discouragement, and the slide into disbelief and cynicism is almost universal among upper year students. The students recently have put proposals to Faculty Council in the spirit of renewing a positive feeling in the academic community at McGill. An emphasis has been placed on developing procedures and institutions that are conducive to decreasing the "upstairs-downstairs" mentality which divides our faculty.

The marking procedure has been a prominent issue this year. Fogarty has observed that the greatest difficulty with the method used to mark examinations is the apparent absence of correlation between the work put in and the grade received. Nobody really wants complete standardization of marks, Fogarty said. What students do want is a clear sense of what is expected of them. If grades are any indication of that factor, it appears to be sorely lacking.

The problem in the marking procedure, claims Fogarty, is a direct result of a combination of factors. First, four months of work is evaluated in a 100% final examination. There is little, if any, interim opportunity to gauge one's performance, and that which does exist is inversely proportional to class size.

Bringing in new professors to decrease the student-faculty ratio is one potential solution. This would also ease the burden on the faculty as a whole, and would enable professors to offer other methods of evaluation. These could include mid-term examinations or tests, short essays, or term papers and oral examinations.

Yet another mechanism that will reflect more accurately a student's performance is the proposal by Dean Brierley that the "Deve" method be considered as an alternative to the current H.P.A. system (for an explanation of Deve and its workings, see Richard Janda's editorial in this week's issue).

Fogarty also feels that too much emphasis is placed on adversarial techniques and case method analysis in the classroom. It is not even necessary to develop a clinical course in order to implement a more practical approach, Fogarty said. In-class techniques that emphasize mediation and conciliation are not antithetical to

the academic approach of the classroom. Arguably, these alternatives are more representative of what goes on in the "real world", especially for students planning careers in labour law.

Fogarty does not think that the recent Faculty Council meetings have been total failures. On the contrary, he feels that Dean Brierley has paid close attention to student concerns, and that the faculty in general has been responsive to and interested in student grievances and suggestions. The main problem, Fogarty pointed out, lies with a minority of professors who use filibustering techniques or who make accusations of bad faith. Fogarty hopes these professors will remain in the minority. With the appointment of Professor Macdonald as a Dean who also is actively concerned with bringing concrete and positive changes to the Faculty, Fogarty's hopes for a more cohesive academic community within the confines of Chancellor Day Hall appear well founded.

Letter to the Editor,

On February 13th Prof. Somerville spoke to the University Women's Club on Conceptions of Medicine and Law in a lecture she entitled "Brave New Babies". Topics discussed over a period of two hours included test-tube babies, embryo transfers, surrogate motherhood and artificial insemination.

Speaking to a fascinated audience, Prof. Somerville managed to address the problems of law, ethics, and psychology related to these rapidly developing areas of scientific research. The lecture was well prepared

and well received; the effort and time Prof. Somerville dedicated to the event should be lauded.

The community at large has a right to keep abreast of the general developments in the fields of law and medicine, and the legal and medical communities have corresponding duties to communicate these developments. While I do not believe that these duties have been neglected, I do believe that the efforts of those partaking in the "communication process" should not go unnoticed.

Francie Ducros

Cont'd from p. 1

Council

different student numbers for different terms and are called upon to enter the numerical grades corresponding to each term on a grid-sheet, while being watched by a student services staff. Sklar felt this type of system, which prevented professors from coming to the aid of borderline cases, was "as objective, as anonymous, and as stupid" a system as you could get.

Identity or Anonymity?

Professor Somerville then stated that she felt students were unlikely to be prejudiced by a loss of anonymity. She pointed out that students tended to get better grades on term papers where professors were aware of the author's identity.

Professor J. Glenn felt that the mere fact that professors would have access to the decoding sheet would lead to a continuing lack of students' trust. Due to this lack of trust, we would go through an "elaborate process" to change the system and as students would still view professors as untrustworthy, it is therefore "not worth" going through the process. Professor Birks also failed to see how extra anonymity would be achieved through extra numbers and felt that since the motion reflected the "unjustified fears" of students, it should not be supported.

Both Todd Sloan and Todd Van Vliet pointed out that some students will forego visits to professors to discuss their exams in order to ensure their anonymity. Sloan emphasized that if only a few students do this, a change is well worth the effort.

The motion was carried. J. Glenn asked that the Associate Dean report back

when the system proved unworkable.

Mandatory Availability of Model Answers Rejected

Fogarty moved that course instructors "shall make available model answers to examination questions and at least three superior exam papers, of which at least one will be in the French language wherever possible". Professor Scott objected, observing that the underlying assumption seemed to be that members of the teaching staff are "beasts of burden", obliged to provide an increase in services without a corresponding pay hike. He further refused to provide model answers, and if anyone told him he was in breach of contract, he would "deal with that person". Prof. Baker moved to amend the motion and delete the words "model" and "and". This motion carried, although with some opposition.

More on Academic Prostitution

Professor H.P. Glenn observed that whatever professors do voluntarily will depend solely on their sense of commitment. At this point, Professor Jane Glenn proposed that the motion be amended so as to read that professors "shall be encouraged" rather than "shall". In an irate tone, she pointed out that mandatory model answers would make serious inroads into her academic freedom. Faculty policy was such that she should be left to teach in the manner she deemed appropriate and that this motion was telling her "how" to teach. Fogarty argued that although the motion as amended had passed in earlier years, there were only eight courses with model answers on reserve. The motion as amended by Professors Glenn and Baker then carried with regard to "superior" exam papers.

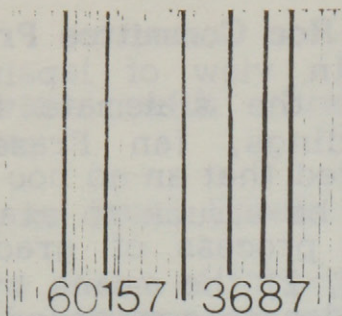
Ad Hoc Committee Proposed

In view of lapsing time and the stalemate in proceedings, Ian Fraser then moved that an ad hoc committee be struck to examine 1) the process of grading itself, 2) the means by which grades were recorded, and 3) the means by which these were communicated (taking into account the possibility of a D grade). He proposed that the committee be formed by two students and two professors and that it report back within three weeks. The Dean suggested that three weeks was "unrealistic", and the motion was amended so that the potential committee be given an indefinite mandate.

Professor Somerville, acting chairperson of the exam board, felt that a committee would be a "total waste of time". The majority of Faculty Council does not accept the underlying basis of the motions, she argued. Further, she did not see why hours need be spent writing and debating to arrive at what would ultimately result in the same stalemate. Jane Glenn then moved that the committee consist of three professors appointed by the Dean, and one student appointed by Fogarty in order to ensure that the proposals have a realistic and practical approach. This motion passed 9 to 8.

Filibustering: Minute Matters

Then as the question itself was to be put to Council members, Professor Scott moved to adjourn the meeting to adjourn at six. This was overruled by the Dean, whose watch indicated three minutes to six. Scott then challenged the Chair, and after some filibustering Prof. Durnford took the Chair and Professor Scott's challenge was defeated. At 30 seconds to six the motion to strike a committee was defeated.



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